

COOK COUNTY SHERIFF'S MERIT BOARD

In the Matter of:

CORRECTIONAL OFFICER
MICHELLE TURNAGE

Employee # [REDACTED] Star #9250

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) Docket No. 1788
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DECISION

This matter coming on to be heard, by Board member Brian J. Riordan, pursuant to notice, the Cook County Sheriff's Merit Board finds as follows:

Jurisdiction

1. Correctional Officer Michelle Turnage (hereinafter "Respondent" or "Turnage"), was appointed a Cook County Correctional Officer on July 23, 2007;
2. On October 28, 2012, the Respondent was assigned to Division I of the Cook County Department of Corrections ("CCDOC");
3. At all relevant times, Respondent's position as Correctional Officer involved duties and responsibilities to the public;
4. Each member of the Cook County Sheriff's Merit Board, hereinafter "Board", has been duly appointed to serve as a member of the Board pursuant to confirmation by the Cook County Board of Commissioners, State of Illinois, to sit for a stated term;
5. The Board has jurisdiction of the subject matter and of the parties in accordance with Chapter 55 of the Illinois Compiled Statutes;
6. Respondent was personally served with a copy of the Complaint against her and a Notice of Hearing and appeared before the Board to contest the charges contained in the Complaint with counsel; and
7. The Board has heard the evidence presented by the Sheriff and the Respondent and has evaluated the credibility of the witnesses and supporting evidence. After consideration of the evidence, the Board finds as follows:

Background

The Sheriff alleges that on February 12, 2014 the Respondent was arrested by the Lombard Police Department at the [REDACTED] retail establishment and charged with one count of misdemeanor retail thief in violation of Illinois statutes for stealing two pairs of jeans with the retail value of approximately \$400.00.

On May 9, 2014, Respondent pled guilty to the charges of retail theft and was sentenced to 12 months of supervision, 40 hours of public service and fined \$158.37.

The Sheriff further alleges that the Respondent failed to immediately verbally report and provide notification to the Cook County Communications Center of her February 12, 2014 arrest. The Sheriff further alleges that she failed to submit a written report specifying the facts forming the basis of the arrest, the indictment or the conviction. The Respondent failed to do this within 48 hours in violation of the Cook County Sheriff's Rules and Regulations. Respondent further failed to report her plea of guilty on May 9, 2014.

During the OPR investigation, the Respondent admitted to being arrested for shoplifting and pleading guilty to all of the charges. She further admitted that she did not report the arrest to her Division Superintendent or the Office of Professional Review stating that she did not report the arrest because she was embarrassed and ashamed.

The Sheriff seeks termination of the Respondent and alleges that she violated the Rules and Regulations of the General Orders of the Cook County Department of Corrections. The Sheriff specifically alleges the Respondent violated:

SHERIFF'S ORDER 11.2.20.2 (effective date: January 25, 2013)

RULES OF CONDUCT, in its entirety, including but not limited to, the following subparts:

II. POLICY

The CCSO serves the citizens of Cook County by performing law enforcement functions in a professional manner, and it is to these citizens that the CCSO is ultimately responsible. Employees of the CCSO shall conduct themselves in a professional and ethical manner both on and off duty. Employees shall not engage in activities that reflect unfavorably on the CCSO but shall instead serve to further the mission of service.

III. APPLICABILITY

This order is applicable to all employees of the CCSO and is for strict compliance. Any violations of this Sheriff's Order may result in disciplinary action up to and including termination. Any conflicts with existing directives shall be resolved in favor of this order.

VI. RULES AND REGULATIONS FOR ALL SWORN AND CIVILIAN CCSO EMPLOYEES

A. Compliance with Laws, Ordinances, and Regulations

1. Employees shall uphold the Constitution of the United States and the State of Illinois, obey all federal, state and local laws in which jurisdiction the employee is present, and comply with court decisions and orders of courts having jurisdiction.
2. Employees shall comply with lawful rules, Sheriff's Office written directives, verbal orders, SEAM articles, and political prohibitions issued by the proper authorities.
6. Any employee who has been arrested, indicated, or convicted of a felony or misdemeanor shall:
 - a. Provide immediate verbal notification via telephone to the Cook County Communications Center ("Communications") at (847) 294-4731.
 - b. Submit a written report immediately upon return to work, or within 48 hours if off work, to their department head via chain of command and to the Office of Professional Review (OPR). The report shall specify the facts forming the basis for the arrest, indictment or conviction, and specifics of the case.

B. Conduct on and off duty.

CCSO employees shall:

1. Maintain a professional demeanor while on duty and will not engage in off-duty behavior that would reflect negatively on the CCSO.
2. Conduct themselves on and off-duty in such a manner to reflect favorably on the CCSO. Employees, whether on or off-duty, will not engage in conduct which decredits the integrity of the CCSO, its employees, the employee him/himself, or which impairs the operations of the CCSO. Such actions shall constitute conduct unbecoming of an officer or employee of the CCSO.
4. Maintain a level of conduct in their personal and business affairs that is in keeping with the highest standards of the law enforcement profession. Employees will not participate in any incident that:

- a. Involves moral turpitude or impairs their ability to perform as law enforcement officers; or
 - b. Causes the CCSO to be brought into disrepute.
- D. Prohibited associations, establishments, and activities.

CCSO employees shall not:

- 1. Engage in known criminal activities ...

Furthermore, the Respondent's actions violated the Rules and Regulations of the Sheriff's Merit Board, specifically:

COOK COUNTY SHERIFF'S DEPARTMENT MERIT BOARD RULES AND REGULATIONS, in its entirety, including but not limited to, the following subparts:

Article X, Paragraph B

No Police Officer of the Cook County Sheriff's Police Department, Correctional Officer of the Cook County Department of Corrections or any Deputy Sheriff of the Cook County Sheriff's Court Services Department will:

- 1. violate any Law or Statute of any State or of the United States of America.
- 2. violate any Ordinance or any County or Municipal Government.
- 3. violate any of the general orders, special orders, directives or rules and regulations of the Cook County Sheriff's Department.

Prosecution Case

Investigator [REDACTED]

The prosecution first called [REDACTED] [REDACTED] who is an investigator with the Cook County Sheriff's Office of Professional Review. He was assigned the investigation of the Respondent's case. He testified that the first notice received by the Sheriff's Department of this incident was the Illinois State Police sending notification to their Department because there was a change in Respondent Turnage's criminal history, in that she had been arrested.

He further made contact with the Lombard Police Department and received all of their records. He recited their investigation which resulted in her being arrested at the [REDACTED] store for stealing the two pairs of jeans with a value of approximately \$400.00, which exceeded the \$300.00 misdemeanor threshold. He testified that the State's Attorney's Office declined to charge her with a felony but did charge her with a misdemeanor. He testified that there was no record that Respondent ever reported the original arrest or her pleading of guilty to the Sheriff's Office. He testified regarding the General Orders and it was her responsibility to report these events to the Department.

Mr. [REDACTED] interviewed Officer Turnage at which time she admitted to all of the allegations outlined in the Complaint. Again, she stated that she did not report it because she was embarrassed and ashamed. At that time, the Criminal and Traffic Division transcripts marked as CCSO 235 through 238 were entered into evidence which outlined the arrest and the final disposition of the criminal case. Also admitted into evidence was the statement where the Respondent admitted to her arrest and her pleading of guilty. She further admitted she did not report her misconduct.

Cross Examination

The witness, upon cross examination, testified that the State Police report does indicate that the merchandise had a value of less \$300.00 opposed to the original Lombard Police report which indicated it was in excess of \$300.00. He further testified that after they had made contact with Respondent about the arrest she was fully cooperative and appeared for her interview and answered all the questions honestly. He further testified that the Respondent did state during the interview that she had been on maternity leave and was having personal problems when the theft took place.

Re-Direct

On re-direct examination, Investigator [REDACTED] testified that there was other history of discipline of Respondent and that was also taken into consideration during their review and investigation. He testified that there were two other OPR investigations and that there was a recommendation of separation in at least one of them. He did testify that most of them had to do with attendance issues. He testified that Respondent had suspensions for attendance reasons.

Re-Cross

Investigator [REDACTED] testified that he was not the specific person to investigate the attendance review issues and that would have been a different department and he was not exactly sure what suspensions she would have served.

Officer [REDACTED]

Officer [REDACTED] testified that he is a police officer with the Village of [REDACTED] and has been for the last seven years. He responded to the call regarding the theft at the [REDACTED] Department Store. He said he was contacted by [REDACTED] as their close circuit television cameras picked up Respondent taking the two pair a jeans, rolling them up and placing them in the stroller. He believed that value of the merchandise stolen was \$396. He identified the Respondent for the record and he placed her under arrest at that time. Officer [REDACTED] brought the Respondent back to the police department and contacted the State's Attorney's Office. He stated it was the decision of the State's Attorney whether they would prosecute as a felony based on the \$300.00 threshold.

Respondent's Case

Respondent Michelle Turnage

Respondent testified that she is employed with the Cook County Sheriff's Department but is currently suspended. She testified that she was employed since 2007 and most recently had been assigned to Division I at the Jail. She described her responsibilities as a jail guard. She stated that she has never had any problems with theft while on duty and working with the inmates.

Respondent testified that she has had write-ups for attendance issues but never for a disciplinary action. She believed that her discipline for her attendance issues are still pending. She does remember that she may have also had an OPR investigation for destroying property or evidence or thrown away paperwork that was suppose to be retained. She denied the allegations. She testified she has never been suspended.

Respondent testified that she went on maternity leave at the end of 2013 and it was an unexpected pregnancy. She testified she had a rough pregnancy and worked until her eighth month of pregnancy. She said she had difficulty at work and tried to get leniency from doctors to have her work in a less stressful environment but was not afforded that option. She was out on maternity leave from September 2013 until approximately March 2014. She further testified that [REDACTED]. She also received the OPR investigation letters regarding the other cases while she was off on leave. She stated that she [REDACTED] and felt she was not being helped out by the Sheriff's Department. She states that she [REDACTED]

Respondent explained the incident indicating that she is not a thief and does not steal but that she had taken her baby to the mall and she did not have any money, [REDACTED] and wanted to get something nice for herself. She [REDACTED]. She admitted to pleading guilty, paying the fine and serving her community service.

Respondent testified that she did not report to the Sheriff's Office because she was embarrassed and it was something she would never do and she cannot believe that she got herself into this position. She testified that she has integrity and honor and she did not know what to do.

Respondent [REDACTED] even since she went back to work.

Cross Examination

Respondent Turnage testified regarding the OPR investigation, destruction of evidence where she believed that she was wrongfully charged with a missing log book that she did not believe existed. She testified that she has never been suspended even though some of the records indicate that she was recommended for a 20 day suspension. She takes full responsibility for her actions at [REDACTED] in February 2014. She testified she was [REDACTED] and did not know what she was doing.

Respondent further admitted that her job is actually very stressful as well but she believe she can still handle the stress of her job and do her job successfully. She further testified that she knew it was proper protocol to notify the Sheriff's Office and takes responsibility for not doing that.

[REDACTED]

[REDACTED] testified regarding his role as a Cook County Correctional Officer and having worked with Michelle Turnage in the past. He said she is a good person and works very hard and that no one had any problems with her. He stated that she performed her job well and that she would be welcomed back on the tier to work with again. He further testified that she was having difficulty when she was pregnant and he recalls her mood changing significantly during that time.

Cross Examination

Officer Spencer testified that, yes he was friends with Respondent, and he did not want to see her be terminated. He testified that he was aware that she was charged with retail theft and that this was a crime involving truthfulness.

At the close of Respondent's case, she entered into evidence a letter from [REDACTED]
[REDACTED] That letter was entered without objection.

Rebuttal Witness

[REDACTED]

This witness testified that was employed with the Cook County Sheriff's Office of Employee Discipline and has been there for 11 years. She testified regarding her knowledge of Ms. Turnage's disciplinary history and she had gone through several disciplinary steps including having grieved an attendance related matter where she was written up under the Attendance Review. She also testified regarding additional SPAR documents which was for unauthorized FMLA in May 2013. She further discussed attendance review grievances and disciplinary matters involving unauthorized FMLA in April 2013. Respondent was further written up for attendance related issues on May 3, 2012, January 20, 2013, and January 26, 2013. There was a grievance for an attendance related matter in May 2013 for a 15 day recommended suspension for absent late call. She had further arbitration hearings and grievances that reduced her discipline on May 21, 2014. She received a suspension reduced to 22 days. She further testified that all of these disciplinary issues were on hold due to the new OPR investigation regarding the theft. She stated that all the suspensions have not been served but are still pending. She stated that if the officer was returned to work she would be responsible for serving the suspensions.

Cross Examination

On cross examination, Ms [REDACTED] stated that she believed all the current suspensions are related to attendance issues.

Findings of Fact

Based on the evidence presented, the testimony of the witnesses, documents and all of the other exhibits that were reviewed and admitted into evidence, it is the Board's decision that Respondent Michelle Turnage did violate the Sheriff's Orders and the Cook County Sheriff Merit Board Rules and Regulations. She admits this in her own testimony. It is this Board's decision that Respondent Turnage violated Sheriff's Order 11.2.20.0(2), (3), (6) and that furthermore she violated Cook County Sheriff's Department's Merit Board Rules and Regulations in their entirety, Article X, Paragraph B.

CONCLUSIONS OF LAW

Based on the evidence presented and after assessing the credibility of the witnesses and weight to be given the evidence and the record, the Board finds that the Respondent did violate the Rules and Regulations of the Cook County Sheriff's Office and the Merit Board. Respondent admits to her actions regarding the retail theft, her arrest and her pleading of guilty to the violations. In addition, she admits that she did not in any way notify the Sheriff's Department and was only through the Illinois State Police notification system that the Sheriff was aware of the occurrence. The testimony of the Respondent and the argument of counsel that she did not try to hide the facts and circumstances of this case non-credible and it was only after she was caught did she admit her crimes and violations.

The Cook County Sheriff's Office cannot have its sworn officers committing theft and breaking the laws. While the Respondent argues extreme circumstances regarding [REDACTED], that is no excuse for a willful violation of Illinois criminal law by sworn officers. The Sheriff's Office has reputation standards and procedures that need to be followed. This behavior is unacceptable for a member of the Sheriff's Department.

Wherefore, based on the foregoing, it is hereby ordered that Respondent Michelle Turnage be separated from employment with the Cook County Sheriff's Office effective November 18, 2014.

Dated: August 10, 2015

[REDACTED]
James P. Nally, Chairman

[REDACTED]
Byron Brazier

[REDACTED]
Pat Brady

[REDACTED]
John D'Amico

[REDACTED]
Jennifer Bae

[REDACTED]
* Brian J. Riordan – Hearing Officer

[REDACTED]
Kim Widup

[REDACTED]
Vince Winters